

November 20, 2007



TRANSCRIPT
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MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Marilyn Praisner, President	Councilmember Michael Knapp, Vice-President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember George Leventhal
Councilmember Duchy Trachtenberg	



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1 Councilmember Knapp,

2 Good morning everyone. Welcome everyone. I have just a couple of brief remarks
3 before we get started. I think as everyone knows our Council President, Ms. Praisner
4 was in a car accident last week. And she just wants me to communicate to all of you
5 that she knows that all of you know and she appreciates that. And she wants to thank
6 everyone for the kind words that they provided over the course of the last four days.
7 She is trying to get well and will be back soon, as soon as the doctors will let her
8 although most of us I think know that she, even though probably not under doctor's
9 orders, is making many phone calls and sending many e-mails in spite of her condition.
10 But she also has special thanks for the County Delegation, the Board of Education, the
11 Planning Board, Montgomery College and all who have wished her well in her recovery
12 and so we do wish her a speedy recovery and hope to see her soon. I also, before we
13 get to our prayer this morning, just want us all to take a moment to first say thanks that
14 we have our colleague Councilmember Leventhal back after his accident from a couple
15 weeks ago. We also have, there was a tragic accident last night in Rockville in which a
16 teenager from the Richard Montgomery High School was killed. And so our thoughts
17 and prayers are with the family. And we also have two others who were injured in that
18 same car accident who are still at the hospital. In addition, our former County Executive
19 Mr. Duncan had a sister who passed away this past week and so our thoughts and
20 prayers are also with them. And I just wanted to, given the rash of accidents, to remind
21 people as we have a rainy cold Tuesday and as many people are getting ready to
22 travel, it's estimated 38.7 million people travel more than 50 miles from home for
23 Thanksgiving and I think we've all been reminded of various incidents that have hit very
24 close to home over the course of the last week that it is very important that we take care
25 to drive safely, that we buckle up and that we actually make sure we're watching what
26 everybody else does as well. And so I'd urge everyone, as you venture out on this
27 holiday that we take great care to make sure that we all come back. And also that as we
28 undertake this Thanksgiving holiday season to be with friends and family that we keep
29 all of those who may be suffering or may not be as fortunate as all of us in our minds as
30 we celebrate. And with that I just want to make sure we keep all of those folks in our
31 mind as we rise for our opening prayer and invocation with Reverend Scott Winnette
32 from Bradley Hills Presbyterian Church in Bethesda.

33
34 Scott Winnette,

35 Let us pray. Oh Holy Spirit, you have promised to lead us into all truth. Prepare our
36 hearts and minds for the business of this day. Bless us that we might behave with true
37 courtesy and honor. Compel us to be just and honest in all our dealings. Save us from
38 any apathy or despondency arising from mountainous challenges. Lure us into the
39 realms of your blessed hope, your optimism. Deepen our listening that we might hear
40 your wisdom, understand your will and act upon new convictions with courage. Bless us
41 this morning and our nation as it suffers in war. We lift our spirits to you in prayer for all
42 who are in harms way. Bring your peace quickly, god of all life. Amen. Thank you.

43
44 Councilmember Knapp,



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1 Thank you. Mr. Leventhal for a point of personal privilege.

2
3 Councilmember Leventhal,

4 Thank you Mr. Vice-President, I just wanted to say that I'm glad to be back. I have been
5 advised by my doctor that a week after surgery it was all right to go to work today and
6 I'm here. I hope, first of all, I really want to thank my good friends and colleagues here
7 at the Council and all of those in the community for literally hundreds of messages,
8 phone calls, flowers, cookies, plants, so many good wishes and when you have an
9 unfortunate incident like the one that occurred on November 1st when a deer collided
10 with my car, you wonder, are you fortunate or unfortunate. It was a misfortune, it was
11 painful and it took me away from this job that I love and that I'm privileged to do but of
12 course the damage could have been much worse and as Thanksgiving approaches, I'm
13 very grateful that I'll be able to be with my family and I just celebrated my 45th birthday
14 yesterday and I was glad to be able to get there. You know, some birthdays you sort of
15 take for granted, this one I didn't take for granted at all. But mostly I wanted to thank the
16 members of the community, many of whom are here in the room today and who are,
17 throughout the County, who really extended such warmth and affection to me and to my
18 family. And I just want to ask for some patience. Although I am here in session today,
19 and I will be resuming a modified schedule of constituent meetings and public
20 appearances, bear with me, I still am recovering and I won't be quite as visible in the
21 community or taking quite as many community meetings or constituent meetings as I
22 might have prior to the accident but I'm eager to get back to work and I will be resuming
23 my regular activities at a reasonable and prudent pace. And I thank all my colleagues,
24 every single one of you have been extremely kind and gracious and I heard from all of
25 you several times and it's good to have friends and it's good to be back. And I also of
26 course want to keep the, our Council President in our thoughts. As I know many of us
27 have, I spoke with her a couple of days ago and we all look forward to her speedy
28 recovery.

29
30 Councilmember Knapp,

31 Well, happy birthday. We're glad to have you back and we urge you to take it easy.
32 We'll all still be here. General Business, Ms. Lauer.

33
34 Linda Lauer,

35 The, on the Consent Calendar, Item E is being deferred, that was Executive Regulation
36 23-07 on the Personnel Regulations, that's at the request of the Executive Branch. And
37 the other thing I have to note is the Petitions, we've received two Petitions, one of them
38 is supporting funding for senior services and the other is opposing Bill 23-07, the gender
39 identity legislation. Thank you.

40
41 Councilmember Knapp,

42 Thank you very much. Do we have Approval of Minutes? Madam Clerk.

43
44 Council Clerk,



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1 You have the Minutes of November 6th for approval.

2
3 Councilmember Knapp,
4 Do we have a motion?

5
6 Councilmember Ervin,
7 So moved.

8
9 Unidentified
10 Second.

11
12 Councilmember Knapp,
13 All in favor? It is unanimous among those present. Any opposed? Okay. Moving right
14 along. Consent Calendar. Do we have a motion?

15
16 Councilmember Floreen,
17 So moved.

18
19 Councilmember Knapp,
20 Second?

21
22 Councilmember Ervin,
23 Second.

24
25 Councilmember Knapp,
26 It always hangs up there for a second. I see no questions. All in favor of the Consent
27 Calendar? It's unanimous. Moving right along. Our first order of business is the Board of
28 Health, Annual Meeting with the Commission on Health. We have Mr. Dan Moskowitz,
29 Chair of the Commission on Health joining us Ms. Janine Gouldtaska, Department of
30 the Health and Human Services staff who will be joining us. I turn it over to the Chair of
31 the HHS Committee.

32
33 Councilmember Leventhal,
34 Well, we will just launch right into the presentation. I enjoyed and all members of the
35 HHS Committee enjoy working with Chairman Moskowitz, he's a vigorous advocate for
36 the public health and he has met with me and I know with other Councilmembers as
37 well to seek ways to be productively engaged in our policy agenda and we appreciate
38 working with him and look forward to the report that he's going to deliver.

39
40 Dan Moskowitz,
41 Thank you. Good morning. My name is Dan Moskowitz and I'm the Chair of the
42 Montgomery County Commission on Health. I'm pleased to present the Commission's
43 annual report for fiscal year 2007. This report, prepared by our immediate past Chair --
44 starts off with the Commission's mission, an overview of our 2006-2007 activities,



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1 membership compensation and governance structure and then proceeds to present a
2 substantive discussion of the Commission's priorities. I will not repeat what is in the
3 report specifically, but I would like to make a few comments. The Montgomery County
4 Commission on Health has for several years had at its top priorities increasing access
5 to primary care to all residents of the County, reducing ethnic and racial healthcare
6 disparities and obesity education and prevention. At our recent retreat, the Commission
7 recognized the County's commitment to these priorities and that Montgomery County
8 stands out as a leader in Maryland in these areas. But the Commission reaffirmed that
9 access, disparities and lack of prevention, particularly related to diet and the ravages
10 that it can cause, poor diet, and lack of physical activity remain public health concerns.
11 While acknowledging the progress made, the Commission remains focused on health
12 equity and promoting healthy lifestyles in the coming year. We established Committees
13 around these concerns with the goal of determining specific areas where we can add
14 value to the residents of our County. We are committed to the work, excuse me, we are
15 committed to work with other Commissions and stakeholders to identify areas of
16 overlapping concerns and to address those areas. This year, in addition to these
17 program areas, the Commission continues to advocate for worker safety. The
18 Commission on Health Worker Safety Taskforce met with -- following our presentation
19 to the HHS subcommittee in July and we remain engaged and committed to this effort.
20 Outreach, both to inform the community about the Commission and to obtain input from
21 the community continues to be of importance to us in fiscal 2008. Outreach assists us
22 identify priorities as well as provide valuable feedback in our citizen oversight role of
23 DHHS. The Commission has also identified the need for updating the Community
24 Health Improvement Plan. Our County population is dynamic both in mix and in size.
25 We are approaching a population of a million. Nearly one out of every 300 Americans
26 lives in our County. Our ability to assess and prioritize is largely a function of the data
27 available. We are appreciative of the Department's leadership and commitment but the
28 Commission can be more effective in its oversight role with an updated and ongoing
29 community health status assessment. Finally, I want to emphasize that we have had
30 terrific support and involvement from director Uma Ahluwalia, Dr. Ulder Tillman and Rick
31 Helford. I would like to recognize Dr. Tillman, the Department and MCPS for their
32 immediate and professional response to the public's recent concern about MRSA. As
33 immediate past Chair, Ms. -- states in her report, the Commission is comprised of
34 people who have broad experience and education on public health and other health
35 related issues. We're a group of people committed to making a positive difference in this
36 community. We look forward to working with the Council this year to improve the overall
37 health of our residents. Thank you for the opportunity to address you in this session of
38 the County Public Health Board. I am happy to answer any questions you may have.

39
40 Councilmember Knapp,

41 Great thank you. Thank you very much and thank you for the work of the Commission. I
42 find your report to be very interesting and clearly your comments are reflective of the
43 diversity of everyone that we have on it and the commitment that we have to the health
44 of our County and wellbeing and so I greatly appreciate the passion and advocacy that



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1 you all bring to the Commission very much. Do we have any questions? Ms.
2 Trachtenberg.

3
4 Councilmember Trachtenberg,
5 Thank you Vice-President Knapp. Again, I very much appreciate the report that's been
6 provided this morning and obviously, the wonderful efforts of the Commission. I actually
7 wanted to raise an issue with the Commission and request that we actually look at
8 respiratory disease, in specific the prevalence of asthma here in Montgomery County. In
9 recent weeks, I actually had the opportunity to look at a report that was provided to me
10 by Adventist Healthcare entitled Partnering Toward a Healthier Future, I'm not sure Dan
11 that you've had a chance to look at it. And basically it talks about health disparities in
12 the Washington County, Frederick County areas and I would note that childhood
13 asthma is the single biggest reason for hospital admissions for children here in
14 Montgomery County and that is specifically true for the African American community
15 where those numbers continue to increase dramatically. So I wondered if we couldn't
16 continue to have some dialogue and perhaps some understanding of exactly what kind
17 of prevalence are we talking about. I'd like to have some more feedback from the
18 Commission and from the Department in that regard.

19
20 Dan Moskowitz,
21 I just would like to mention that yes, we have seen that report and one of the
22 contributors to that report is actually on the Commission and there will be a meeting at
23 Washington Adventist I think the 30th of this month, I'm not exactly sure of the date, to
24 discuss health disparities in this local community but including the neighboring counties.

25
26 Councilmember Trachtenberg,
27 Okay.

28
29 Dan Moskowitz,
30 But we will certainly follow up and keep, and get back to you. We'll keep this in our, in
31 our discussion.

32
33 Councilmember Trachtenberg,
34 Well I think it's so important because we certainly know that the air quality here in
35 Maryland and specifically in the Washington region is of very poor quality. So I'm hoping
36 we can continue to have conversations about this.

37
38 Councilmember Knapp,
39 Good point. Mr. Leventhal.

40
41 Councilmember Leventhal,
42 Yeah, I wanted to thank the Commission for the pie chart on page 17 of the report.
43 These statistics I think can't be emphasized often enough when we look at how we
44 allocate our resources in terms of prioritizing our public health as well as public safety



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1 and other public policy efforts. And I would encourage the Commission to continue to
2 work to bring into sync efforts commensurate with the problem. I find often when we get
3 briefings from our Health Department, they are always well prepared and always very
4 thorough and informative and frequently are in the nature of preventing things that we
5 hope will never occur. And that's a very important role for our Health Department and
6 we should be fully informed about the threat of pandemic flu and the concern about
7 Avian Flu and the potential outbreak of MRSA which really turned out to be consistent
8 with the past several years and wasn't particularly an outbreak. But I also think it's
9 important that as we sort of follow the headlines that we try to bring our efforts in sync
10 with what we actually know are the leading causes of death and I think it is, it can't be
11 emphasized enough that more Marylanders die of heart disease than of anything else,
12 homicide, vehicular accidents, pedestrian accidents, AIDS, Avian Flu, anything else.
13 And that when we here at the Council and I know the Commission on Health as well
14 have talked about issues that include some lifestyle issues that include issues of fitness
15 and nutrition, there are those in the public who sometimes laugh at us and say, well,
16 you know, that's not the County Council's job and why is the County Council acting like
17 the food police, shouldn't the County Council be worried about real threats, real
18 dangers? Well, actually, heart disease is the number one killer of Marylanders. And
19 that's a statistic that, now of course everybody has to die of something, so, I don't want
20 to overstate the case either, obviously we will all die eventually, but it is important to
21 match the extent to which our efforts are aimed at those things which are real and which
22 are the cause of real dangers today even as we also speculate on how to prevent those
23 things that may or may not and we hope not, don't become a problem. So I just, I'm
24 always very, very interested in charts like the one on page 17 and I think it can't be
25 emphasized enough and I think it brings home the point that a number of us certainly in
26 the HHS Committee and here on the Council have been trying to address that we've got
27 to look at prevention. We've got to look at lifestyle issues, we have to look at fitness, we
28 have to look at nutrition because those are the health concerns that are killing people
29 right now, today and that that is good public health policy.

30
31 Dan Moskowitz,

32 -- There is a definite interest on the Commission. There are several people who are very
33 focused on prevention and even our Committees that are concerned about access and
34 health disparities realize that part of this is with the lack of, is in our dietary and our
35 physical behavior and some of our lifestyle activities. So I will certainly relate both that
36 and Councilmember Trachtenberg's concerns or comments about asthma to the
37 Commission. I'll certainly bring that back.

38
39 Councilmember Knapp,

40 Great, thank you. I appreciate the comments of both Ms. Trachtenberg and Mr.
41 Leventhal. Clearly prevention, fitness, wellness are critical issues we're going to
42 continue to focus on in the coming year and then even how that overlaps with our
43 policies as we look at three different, hopefully, three master plans next year and how
44 we are creating pedestrian friendly communities which will then enhance our ability to



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1 really be more well and really take more action and being outside and really engaging
2 the community as opposed to just driving from one place to the other and so I look
3 forward to working with the Commission over the course of the year to see how we can
4 play a role to improve upon it even more. Thank you. I see no, oh, Mr. Elrich.

5
6 Councilmember Elrich,

7 Yeah, I was interested in the expansion of access and the issue over, we went through
8 the budget and you know, Montgomery Cares last year didn't reach the levels that
9 people had hoped it would reach and I think it raises a, you know, a broader question
10 about what is, you know, what is the most effective means of expanding access to
11 people in the County? And I noticed, you know, in the report, it talks about reviewing,
12 you know, monitoring the implementation and expansion of the program. And I just
13 wonder are we continuing to look broadly at what we do and how we do it and what the
14 best models are for service delivery. Because I you know, would hate to see this, I
15 mean, I would hate to see this stagnate on the one hand while knowing that that means
16 that about 70,000 people are going without healthcare. And I think the most important
17 thing is, you know, not being whetted or fixed to any particular model, but finding a
18 model or tweaking a model until the model delivers the results that we want to see
19 delivered. And so I'm hoping that the review you do is an aggressive review of
20 programming and thought about what is the most effective way to increase healthcare
21 outreach and not simply telling us, you know this is what we reached this year and it's
22 really unfortunate we didn't reach this many people but this is where we are. I want to
23 know how to go from where we are to someplace different.

24
25 Dan Moskowitz,

26 As you know, we have a member on the Montgomery Cares Advisory Board, the
27 Commission on Health has a person on that Board and she's our past Chair, Ms. Dark,
28 and she did share with us the report from Montgomery Cares. We have not had a
29 chance to really dissect that. But there are questions I asked her about that, particularly
30 financial ones. Should they expand in terms of new facilities, you know, what's an
31 ongoing operational cost? But the Commission itself has not had a chance to thoroughly
32 review and get back to that. I will tell you that we were relying to some extent, to a great
33 extent on the Montgomery Cares Advisory Board for that information. So we will keep a
34 broader view, but the real knowledge base right now to a great extent lies within the
35 Advisory Board that reports back through Ms. Dark to us.

36
37 Councilmember Elrich,

38 Well, I guess that maybe all fine and well, but at the end of the day, I always hate
39 relying on information coming from groups that you're evaluating to provide you
40 information. I mean, there, there is a tendency to often find that what we're doing is fine.

41
42 Dan Moskowitz,

43 Right.



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1 Councilmember Elrich,

2 And my interest is finding out how we can do better and wherever those results lead us,
3 they ought to lead us and I hope you have access to outside resources because I think
4 the issue of how to best disperse or distribute medical care in the community, I mean,
5 nobody's been A, terribly effective in the country, so you can't like point to a place and
6 say we've got an effective model. Which tells me that you know, to continue to think
7 about it and put as many minds to bear on it as possible evaluating our resources, and
8 what's the best use of those resources ought to be an ongoing project. We shouldn't
9 consider this as we've solved the problem, found the solution and now we're just hoping
10 that the numbers match our desire but we have to continue to evaluate whether we're
11 actually, whether the tools are the tools we need at this point.

12
13 Councilmember Knapp,
14 Mr. Leventhal.

15
16 Councilmember Leventhal,

17 I welcome Councilmember Elrich's interest in the topic and we had a lengthy discussion
18 that I participated in by telephone a couple of weeks ago outlining some of our
19 disappointment at the failure of the Montgomery Cares Program to meet the goals that
20 we had set out for it thus far in serving as many patients as we hoped to be able to
21 serve by now. I just want to say we've had an extraordinarily fruitful dialogue with Uma
22 Ahluwalia and we are exploring a variety of different delivery mechanisms beyond
23 simply stationary clinics serving poor people in place. We are exploring whether we
24 ought to make Montgomery Cares more portable so that those who are participants in
25 the program can actually take their membership to a doctor's office rather than simply
26 having to be served at one single place. And we are evaluating other local government
27 efforts. It's not in any way a static effort and we spend hours and hours and hours on
28 this topic in the HHS Committee and I welcome your interest and either you or your staff
29 participation as we continue to do that.

30
31 Councilmember Knapp,
32 Thank you. Ms. Trachtenberg.

33
34 Councilmember Trachtenberg,

35 Following up what our Committee Chair just suggested to our colleague Councilmember
36 Elrich, you know we did have a good vigorous conversation a few weeks back and I
37 think what this speaks to as well on is really the need to have strategic planning. And
38 that's part of the ongoing conversation that the HHS Committee has had around the
39 Community Health Improvement Plan but I would also suggest to my colleagues that
40 beyond having an assessment done, there really is a dramatic need to make some
41 investments within the Department as well around technology and I can't stress that
42 enough. Because data is important, but it's not going to be as useful if we don't have the
43 technology to do the collection routinely and be able to evaluate the information that we



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1 do indeed get you know, from the collection itself. So, again, more conversation to come
2 and I appreciate the remarks by Councilmember Elrich.

3
4 Councilmember Knapp,
5 I see no more questions or comments. Thank you very much. We look forward to
6 continuing to work with you. Very good. We now move to Legislative Session. Madam
7 Clerk do we have any, do we have Approval of the Legislative Journal?

8
9 Council Clerk,
10 You have the Journal of November 6th for approval.

11
12 Councilmember Knapp,
13 Do we have a motion?

14
15 Councilmember Andrews,
16 So moved.

17
18 Councilmember Ervin,
19 Second.

20
21 Councilmember Knapp,
22 Moved by Mr. Andrews. Seconded by Ms. Ervin. All in favor? All in favor? [laughter].

23
24 Councilmember Berliner,
25 All in favor?

26
27 Councilmember Knapp,
28 That is unanimous among those present. Thank you. We now turn to Introduction of
29 Bills and I will turn to Councilmember Berliner for a, for some opening remarks on a
30 series of Bills that he and his staff have been working on for a long period of time and
31 once he goes through the, his opening remarks, we'll then walk through the introduction
32 and announcement of the cosponsorship of all of those various pieces of legislation.
33 And so I will turn to Councilmember Berliner.

34
35 Councilmember Berliner,
36 Thank you Vice-Chairman Knapp. The seven bills being introduced today with support
37 from seven of you on many of these measures include 26 different initiatives.
38 Collectively this comprehensive package of 26 initiatives is designed to attack the issue
39 of global warming at its source in our transportation, building and utility sectors through
40 energy efficiency, renewable energy, alternative fuels, trees, land use and utility
41 advocacy. The legislation is focused on what we can do with our own County facilities
42 both as a model for our community and as the source of approximately 4% of the
43 County's overall greenhouse gas emissions. But more importantly, it includes many
44 measures that will put us on a path to making real progress and reducing the 96% of



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1 emissions that are attributable to the private sector. It is a serious package that sets in
2 motion both the process and the substance of fulfilling the pledge we made as a County
3 this spring to reduce our emissions 20% in the year 2020 and by 80% in the year 2050.
4 The urgency of this task is no longer a matter of serious debate. The Washington Post
5 and the New York Times on Sunday had major articles on the latest warnings from the
6 top scientists in the world, the U.N.'s Intergovernmental Panel on Climate Change. In
7 their opinion, what is at stake is nothing less than the widespread extinction of species,
8 the loss of the arctic icecap, flooding, killer heat waves and the transformation of the
9 Amazon rain forest into a savanna. What is at stake is nothing less than the fate of our
10 planet. To meet this challenge, every jurisdiction at every level of government must do
11 its part. That our own federal government has failed to meet its responsibility given our
12 nation's contribution to the crisis is almost too depressing for words. Our unabated
13 consumption of oil has contributed to wars we should not be fighting, putting petrol
14 dollars in the pockets of those that threaten us and pollution in our air that harms us.
15 Long ago, this should have been enough to wean us from our addiction, but it hasn't.
16 Yet, now, local governments around the country are responding to the threat of global
17 warming in new ways that offer a glimmer of hope both in terms of real reductions and
18 creating a more favorable climate for national legislation. Global warming has
19 galvanized the public like nothing else before and we must seize the moment. This
20 package of bills reflects those efforts drawn wherever possible from best practices that
21 have been employed elsewhere and making them our own. But we are not starting from
22 scratch. Our County has been at the forefront of this effort thanks to the extraordinary
23 work of the past Council led by our colleague Councilmember George Leventhal. What
24 we are introducing today is what I would call the second generation of energy and
25 environmental policy initiatives building upon what we have done and going to the next
26 level. And while many, many months of work, including our global warming public forum
27 have gone into this effort, it is by no means a perfect package or the limit of what we
28 can or should be doing. But let me just say at this moment as a point of personal
29 privilege that to the extent to which it is not perfect, it is certainly not the function of the
30 staff that has worked hard on it. And let me say to Kathleen in particular who has stayed
31 long enough with us to conclude her work on this package, I'm very grateful and that I
32 was sorely tempted to be a no vote on your going across the street. I think that we
33 should not be losing one of our very, very top staffers but I thank you for your efforts on
34 this as well as my own staff Ms. Williams, Karen has just worked very hard with respect
35 to this and it would not be before you but for their work. Thank you very, very much. But
36 between now and when these measures go to public hearing more than, about two
37 months from now, it is my hope that we will hear from experts throughout the country
38 and the County on how we can improve upon it. And I am confident that collectively we
39 will improve upon this effort before these measures are enacted into law next year.
40 Thank you.

41 Councilmember Knapp,

42 Thank you Councilmember Berliner. What I'll do now is just run through the seven bills
43 that will be introduced. Each of these bills will be held at a public hearing scheduled for
44



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1 January 17th at 7:30 p.m. And so I'll just walk through each of the bills and then the
2 cosponsors associated with each. Bill 29-07, Environmental Sustainability - Climate
3 Protection - Motor Vehicles, sponsored by Councilmembers Berliner, Ervin, Elrich,
4 Floreen, Leventhal and Knapp. Bill 30-07, Buildings - Energy Efficiency, sponsored by
5 Councilmembers Berliner, Praisner, Elrich, Floreen and Trachtenberg. Bill 31-07. Real
6 Property - Energy Performance Audits as revised, sponsored by Councilmembers
7 Berliner and Elrich. Bill 32-07, Environmental Sustainability - Climate Protection Plan as
8 revised, sponsored by Councilmembers Berliner, Andrews, Elrich, Floreen and
9 Leventhal. Bill 33-07, Renewable Energy, sponsored by Councilmembers Berliner,
10 Ervin, Praisner, Elrich, Floreen, Trachtenberg and Leventhal. Bill 34-07, Planning
11 Procedures - Greenhouse Gas Emissions, sponsored by Councilmembers Berliner,
12 Praisner, Andrews, Elrich, Floreen, Trachtenberg and Leventhal. And Bill 35-07,
13 Consumer Protection - Energy and Environmental Advocacy, sponsored by
14 Councilmembers Berliner, Ervin, Andrews, Elrich, and Floreen and Leventhal. That
15 concludes the Introduction for the Bills. Again, public hearing is scheduled for January
16 17th at 7:30 p.m. Any comments? No. We now move to District Council Session. We
17 have Action on Subdivision Regulation Amendment 07-01, Adequate Public Facilities -
18 Validity Period. In the absence of the PHED Committee Chair and Council President, I
19 turn to Mr. Faden to walk us through the Committee's recommendations.

20
21 Michael Faden,
22 Thank you Mr. Vice-President. This Subdivision Amendment was proposed by the
23 Planning Board as part of its growth policy package that they reported to you this year.
24 This amendment effects what's known as the pipeline of development. Briefly it would
25 reduce from 12 to 10 years the maximum Validity Period of a Planning Board finding of
26 Adequate Public Facilities, authorize the Board to condition a Validity Period longer than
27 five years in adherence to an approved development schedule or phasing plan,
28 authorize the Board to impose transportation improvement or mitigation conditions as
29 needed to assure adequate transportation service levels during a longer Validity Period
30 and finally authorize the Board to require the applicant to submit a fresh traffic study
31 when it considers extending an Adequate Public Facilities Validity Period. The PHED
32 Committee reviewed this at our worksession in July and recommended it, I'm sorry in
33 September I believe and recommended it to be enacted as introduced.

34
35 Councilmember Knapp,
36 Thank you. I just want to turn to the members of the Committee and see if they have
37 additional comments. Okay. Ms. Ervin.

38
39 Councilmember Ervin,
40 Just a couple of questions about the conversation in PHED and one is, was there any
41 discussion of waivers on any projects and the second one is what happens if the project
42 isn't completed in ten years? Is there any conversation about extensions?

43
44 Michael Faden,



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1 There was very little conversation at the PHED Committee worksession on those topics
2 because even though the current law provides for them, the Subdivision Amendment
3 did not change that. Under the current law, the Board has authority in certain defined
4 circumstances to extend the Validity Period if the development is not complete but is
5 showing, is moving toward completion, there are specific tests for that. There are, I don't
6 believe there is any direct waiver authority, but the extension authority essentially allows
7 the same thing.

8
9 Councilmember Knapp,
10 I see no additional questions. Madam Clerk, would you call the roll?

11
12 Council Clerk,
13 Ms. Ervin.

14
15 Councilmember Ervin,
16 No.

17
18 Council Clerk,
19 Mr. Elrich.

20
21 Councilmember Elrich,
22 Yes.

23
24 Council Clerk,
25 Ms. Floreen.

26
27 Councilmember Floreen,
28 Yes.

29
30 Council Clerk,
31 Ms. Trachtenberg.

32
33 Councilmember Trachtenberg,
34 Yes.

35
36 Council Clerk,
37 Mr. Leventhal.

38
39 Councilmember Leventhal,
40 Yes.

41
42 Council Clerk,
43 Mr. Andrews.



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1 Councilmember Andrews,
2 Yes.

3
4 Council Clerk,
5 Mr. Berliner is not here. Mr. Knapp.

6
7 Councilmember Knapp,
8 Yes. The motion carries 6-1. Mr. Berliner.

9
10 Councilmember Berliner,
11 The answer is, yes. Yes.

12
13 Councilmember Knapp,
14 The motion carries. Subdivision Regulation Amendment 07-01 is approved 7-1. Moving
15 to Action on Zoning Text Amendment 07-05, Site Plan Amendment. I turn to Mr. Zyontz.

16
17 Jeff Zyontz,
18 Thank you Mr. Vice-President. The Zoning Text Amendment 07-05 was sponsored by
19 Councilmembers Leventhal, Floreen, Knapp and Ervin. It is for the purpose of allowing
20 some modifications to an approved site plan for two types of activities. In essence, a
21 site plan could be changed for those projects that are more than five years old if the
22 permit is for constructing an accessibility improvement, repairing an existing structure,
23 replacing an existing structure with a similar structure for the same use. The Committee
24 recommended modifying the bill as introduced to delete issuing sediment control
25 permits that were not in conformance with the site plan. They also would add outdoor
26 lighting with full cutoff fixtures as an allowable modification. The Committee also wanted
27 to distinguish between those activities which would require a building permit and those
28 that would not require a building permit. And for those changes that would occur that
29 involve landscaping or the addition of 500 square foot of paving outside of a special
30 protection area, they would also allow those changes to occur without a permit. In
31 addition, this ZTA allows discretion for the Planning Board to approve, not the Planning,
32 the Planning Director to approve what most would consider minor Site Plan
33 Amendments. And the Committee wanted to add to the ZTA as introduced that such
34 amendments could not include things that increased the height of any building,
35 increased the floor area of any nonresidential building, increased the number of dwelling
36 units or prevented the circulation of any street or path. But would then allow things that
37 modified parking locations, landscaping, sidewalk, recreational facilities, recreational
38 facilities were added by the Committee, recreational area, public use space or green
39 area in a manner that doesn't alter the basic elements of the plan and would give the
40 Planning Director some discretion to change those things that had minimal effects on
41 the overall design layout and quality and did not invalidate the intent of the plan. So
42 there were a number of changes recommended by the Committee. I neglected one
43 other change and that is in replacing an existing structure, it's an existing structure other
44 than a building was a modification added by the Committee. With that, the Committee



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1 did vote 3-0 in favor. This, I will note that this is stated to take effect 20 days after the
2 Council's adoption. But you do have the Planning Board development manual that
3 implements some of this coming before you next week. So, I'm, and that was not
4 addressed by the Committee.

5
6 Councilmember Knapp,
7 Okay. Ms. Floreen.

8
9 Councilmember Floreen,
10 Thank you Mr. Vice-President. I wanted to comment just generally. This is basically
11 Clarksburg cleanup. We enacted a lot of rules that turned out in implementation we're
12 affecting things that we didn't intend to affect. And many of you will recall getting a lot of
13 emails and letters from Montgomery Village Foundation because they found they
14 couldn't like replace a tree or place that without having to go through a big rigmarole. So
15 this is intended to get to that. I wanted to, I've just spoken with Mr. Elrich here and we
16 would propose that we have this take effect immediately. Does that mean we have to
17 turn it into emergency legislation? It has changed the effective date to as of today, so as
18 to permit the Planning Board to include it in their rules of procedure, the things from this
19 that need to go into their rules of procedure would be allowed to do that immediately.

20
21 Councilmember Knapp,
22 That's a Committee recommendation?

23
24 Councilmember Floreen,
25 Yeah.

26
27 Councilmember Knapp,
28 Without objection?

29
30 Jeff Zyontz,
31 If I can in my role as staff bring up one other issue. One of the things that was --.

32
33 Councilmember Floreen,
34 Now you do.

35
36 Councilmember Knapp,
37 Do you have a role other than that of staff?

38
39 Jeff Zyontz,
40 Well, a second ago I was acting as Committee Chair. [laughter].

41
42 Councilmember Floreen,
43 You.



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1 Jeff Zyontz,

2 One of the things that the Committee removed from the amendment was a statement
3 that said modifications to improvements shown in the improved site plan that are
4 identified in the section do not require an amendment to the site plan.

5
6 Unidentified

7 Jeff, what page?

8
9 Councilmember Floreen,
10 Page five --.

11
12 Jeff Zyontz,

13 Page five of the staff report. And that section was put in there so that if you made one of
14 those changes that we indicated that are relatively minor at some point in the future, it
15 wasn't found to be a violation of the site plan because you still didn't get the
16 amendment. You know, you didn't file an amendment, you got the permit without going
17 through that. So I would think that would be an important provision to add into the two
18 sections where you can modify without getting an amendment.

19
20 Councilmember Floreen,

21 Is this saying the same thing that we intended anyways? That modifications as we
22 provided for in this language did not require an amendment to the site plan. That was
23 the whole point of this. And this is saying that over again?

24
25 Jeff Zyontz,

26 Well, it's a little bit different. It's saying the converse. The amendment as it's drafted
27 allows you to do something. What this is saying is if you do that, it is not a violation.

28
29 Councilmember Knapp,
30 Okay.

31
32 Councilmember Floreen,

33 That's what it does. We're good with that.

34
35 Councilmember Knapp,
36 Committee's fine with that?

37
38 Councilmember Floreen,
39 Yep.

40
41 Councilmember Knapp,
42 Okay. Without objection? Any additional comments?

43
44 Councilmember Floreen,



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1 No.

2
3 Councilmember Knapp,

4 Okay, I would just build upon what Ms. Floreen had said, that this is part of the
5 Clarksburg cleanup and I think many of us anticipated that we would have this type of
6 legislation coming back after we had approved a number of the modifications as a result
7 of Clarksburg. And so I think what's before us, I thank Mr. Leventhal for his efforts in
8 getting it introduced and I thank the Committee for the modifications that they've made
9 because I think they're important in clarifying. The one question I would ask, is
10 Montgomery Village Foundation enumerated a number of issues that they're running
11 into because there weren't site plans that could be found for a number of their various
12 sub-communities. And so the question is, does what is before us capture the elements
13 that have been raised by the part of the Foundation. From my reading last night, it
14 appeared to capture most of them but I just wanted to see from staff perspective if you
15 think we got them all.

16
17 Jeff Zyontz,

18 As a matter of legislative history, I think we'll all agree that Montgomery Village exists
19 for more than five years.

20
21 Councilmember Knapp,

22 Yes.

23
24 Jeff Zyontz,

25 So that they can proceed under this just by acknowledging that fact. So it really exempts
26 those older ones particularly recognizing Montgomery Village's problems. Montgomery
27 Village also asked for all lighting changes to be allowed without changes. This does
28 some of that. It allows you to do outdoor lighting with full cutoff fixtures but not all
29 lighting. Lighting can be controversial. So it goes a long way to solve the Montgomery
30 Village issues.

31
32 Councilmember Knapp,

33 Okay. Thank you. Mr. Leventhal.

34
35 Councilmember Leventhal,

36 Thank you, Mr. Vice-President. I just wanted to thank the PHED Committee for its
37 careful attention to this bill and I'm glad that it appears to be about the pass the Council.
38 I think from time to time we need to cleanup where we may have overreached and even
39 where we've made a good effort with the best intentions, sometimes legislation needs a
40 little, every writer needs an editor and sometimes legislation needs some editing as
41 well. So I appreciate the support of my colleagues for this ZTA.

42
43 Councilmember Knapp,

44 Excellent. Thank you. I see no further questions. Madam Clerk, will you call the roll?



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1
2 Council Clerk,
3 Ms. Ervin.
4
5 Councilmember Ervin,
6 Yes.
7
8 Council Clerk,
9 Mr. Elrich.
10
11 Councilmember Elrich,
12 Yes.
13
14 Council Clerk,
15 Ms. Floreen.
16
17 Councilmember Floreen,
18 Yes.
19
20 Council Clerk,
21 Ms. Trachtenberg.
22
23 Councilmember Trachtenberg,
24 Yes.
25
26 Council Clerk,
27 Mr. Leventhal.
28
29 Councilmember Leventhal,
30 Yes.
31
32 Council Clerk,
33 Mr. Andrews.
34
35 Councilmember Andrews,
36 Yes.
37
38 Council Clerk,
39 Mr. Berliner.
40
41 Councilmember Berliner,
42 Yes.
43
44 Council Clerk,



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1 Mr. Knapp.

2
3 Councilmember Knapp,

4 Yes. That is unanimous. Moving on to Zoning Text Amendment 07-14, Ripley/South
5 Silver Spring Overlay Zone - Development Standards.

6
7 Jeff Zyontz,

8 This is a Zoning Text Amendment 07-14 sponsored by Councilmembers Ervin, Floreen,
9 Leventhal, and Trachtenberg. This would amend the definition of television, radio
10 broadcasting studio principally to add the allowance for satellite dishes, amend height
11 standards in the Ripley Street Overlay Zone to allow it to go to 200 feet in height plus
12 have other receiving antenna on top of that 200 feet, and delete expired credit
13 provisions for the demolition of buildings. I congratulate the Committee on doing a ZTA
14 that actually reduces the number of pages within the zoning ordinance and makes some
15 general cleanup provisions to the Ripley Street Overlay Zone. And the Committee
16 recommended approval without changes from the introduction.

17
18 Councilmember Knapp,
19 Excellent. Ms. Ervin.

20
21 Councilmember Ervin,

22 Thank you very much. I want to make a couple of points. First, this ZTA allows a
23 building up to 200 feet in the Ripley South Silver Spring Overlay Zone. The current
24 zoning allows buildings of 143 feet tall. This additional height is needed to spur
25 development in the downtown area of Silver Spring. And the Council should note that
26 the Silver Spring CBD sector plan recommends a maximum building height of 90 feet on
27 Georgia Avenue with the ability to build two feet higher for every one foot back from
28 Georgia Avenue. This ZTA does not change this requirement. Also sites protected by
29 the master plan of historic sites in the Overlay Zone will remain protected. I just wanted
30 to state that because we've been getting a lot of emails about what this will actually do
31 so I just wanted to clarify what this will actually do.

32
33 Councilmember Knapp,

34 Thank you Councilmember Ervin. I see no other questions. Madam Clerk, call the roll.

35
36 Council Clerk,
37 Ms. Ervin.

38
39 Councilmember Ervin,
40 Yes.

41
42 Council Clerk,
43 Mr. Elrich.



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1 Councilmember Elrich,
2 Yes.

3

4 Council Clerk,
5 Ms. Floreen.

6

7 Councilmember Floreen,
8 Yes.

9

10 Council Clerk,
11 Ms. Trachtenberg.

12

13 Councilmember Trachtenberg,
14 Yes.

15

16 Council Clerk,
17 Mr. Leventhal.

18

19 Councilmember Leventhal,
20 Yes.

21

22 Council Clerk,
23 Mr. Andrews.

24

25 Councilmember Andrews,
26 Yes.

27

28 Council Clerk,
29 Mr. Berliner.

30

31 Councilmember Berliner,
32 Yes.

33

34 Council Clerk,
35 Mr. Knapp.

36

37 Councilmember Knapp,
38 Yes. That is unanimous. And that concludes -- oops, Mr. Andrews.

39

40 Councilmember Andrews,
41 Thank you Mr. President. I just wanted to be added as a cosponsor on Bill 33-07. Thank
42 you.

43

44 Councilmember Knapp,



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1 Good. So noted. I would just in concluding the Council's business today wish our
2 residents a joyful, restful and safe holiday. I would also, I would urge the
3 Councilmembers in particular to travel with caution. We've had two incidents over the
4 last three weeks and the third one last evening if I understand the reports Ms. Floreen.
5 And so clearly Councilmembers are having some difficulty. So please be careful.

6
7 Councilmember Elrich,
8 Warning to the rest of the public.

9
10 Councilmember Knapp,
11 I think we should just stay home.

12
13 Councilmember Trachtenberg,
14 I'm in the process of drafting a bill.

15
16 Councilmember Knapp,
17 Excellent. And our thoughts and prayers are with our Council President. And please all
18 have a happy holiday. Thank you very much and the Council stands adjourned.

19